

**IC 31-16**

**ARTICLE 16. FAMILY LAW: SUPPORT OF  
CHILDREN AND OTHER DEPENDENTS**

**IC 31-16-1**

**Chapter 1. General Provisions**

**IC 31-16-1-1**

Sec. 1. This chapter and IC 31-16-2 through IC 31-16-12 shall be construed and applied to promote the purpose and policy of this chapter and IC 31-16-2 through IC 31-16-12.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-1-2**

Sec. 2. The purpose and policy of this chapter and IC 31-16-2 through IC 31-16-12 are to provide for child support.

*As added by P.L.1-1997, SEC.8.*

## **IC 31-16-2**

### **Chapter 2. Actions for Child Support**

#### **IC 31-16-2-1**

Sec. 1. Proceedings under this chapter and IC 31-16-3 through IC 31-16-12 must comply with the Indiana Rules of Civil Procedure.  
*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-2-2**

Sec. 2. A cause of action for child support is established.  
*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-2-3**

Sec. 3. A proceeding for child support must be commenced by the filing of a petition entitled, "In Re the support of \_\_\_\_\_". The petition may be filed by any person entitled to receive child support payments.  
*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-2-4**

Sec. 4. A petition for child support:

- (1) must be verified; and
- (2) must set forth the following:
  - (A) The relationship of the parties.
  - (B) The present residence of each party.
  - (C) The names and addresses of:
    - (i) each living child less than twenty-one (21) years of age; and
    - (ii) each incapacitated child; of the marriage.
  - (D) The relief sought.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-2-5**

Sec. 5. Whenever a petition is filed, a copy of the petition, including a copy of a summons, shall be served upon the person alleged to be responsible for child support in the same manner as service of summons in civil actions generally.  
*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-2-6**

Sec. 6. In an action for child support under section 2 of this chapter, one (1) of the parties must reside in the county at the time of the filing of the action.  
*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-2-7**

Sec. 7. A responsive pleading or a counter petition may be filed under this chapter or IC 31-16-3 through IC 31-16-12.  
*As added by P.L.1-1997, SEC.8.*

**IC 31-16-2-8**

Sec. 8. (a) The court shall enter a decree in an action under section 2 of this chapter when the court finds:

- (1) that there is a duty to support by the person alleged to have the duty;
- (2) that the duty to support has not been fulfilled; and
- (3) that an order should be entered under IC 31-16-6-1.

(b) The decree may include orders as provided for in IC 31-16-3 through IC 31-16-12.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-3 Repealed**  
(*Repealed by P.L.197-1997, SEC.29.*)

**IC 31-16-3.5**

**Chapter 3.5. Security to Secure Child Support**

**IC 31-16-3.5-1**

Sec. 1. A bond required under this article to secure the obligation of child support must:

- (1) be in writing; and
- (2) be secured by:
  - (A) at least one (1) resident freehold surety; or
  - (B) a commercial insurance company.

*As added by P.L.171-2001, SEC.8.*

**IC 31-16-3.5-2**

Sec. 2. A bond described in section 1 of this chapter may be prepared in substantially the following form:

STATE OF INDIANA )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )  
 )  
 )  
IN THE MATTER OF: )  
 )  
Name of Parent (As the Principal) )  
 )  
Name of Parent (As the Oblige) )  
 )  
 )  
CHILD: )  
 )  
Name of Child )  
 )

KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_, as Principal, and \_\_\_\_\_, as Surety, are held and firmly bound unto \_\_\_\_\_, as Oblige, in the penal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), for the payment of which well and truly to be made we hereby bind ourselves and our heirs, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, an Order was duly made and entered by the above Court in the State of Indiana, County of \_\_\_\_\_, dated \_\_\_\_\_, defining custody, visitation, and support rights regarding the named children.

NOW THEREFORE, the conditions of this obligation are such that:

1. No right of action on this bond shall be granted for the use or benefit of any individual, partnership, corporation, or other entity, other than the named Oblige.
2. It is agreed that neither this bond nor the obligation of this bond, nor any interest in this bond, may be assigned without the prior express written consent of the Surety.
3. Payment under this bond shall be conditioned upon the Oblige's, or the representative of the Oblige's filing a motion with the court seeking a declaration of forfeiture of

the bond and the Court's finding and entry of a final judgment ordering the Principal and Surety to make such payment. A certified copy of the filing shall be provided to the Surety at its address of record. The Surety shall make payment within thirty (30) days of receiving notification of the final judgment directly to a Trustee appointed by the Court who shall administer the funds in a fiduciary capacity.

4. The Surety shall not be liable hereunder for any amount larger than the face amount of this bond.
5. This bond and the obligation hereunder shall terminate and be of no further effect if the Court order requiring it is modified in any way without the Surety's consent, expires, or this cause is removed to another jurisdiction.
6. The Surety may file a motion with the Court for discharge of this bond and its obligation hereunder for any good cause. Good cause includes, but is not limited to, misrepresentation or fraud in the initial application for this bond, nonpayment of premium, loss of collateral, or resignation of the Indemnitor. The Surety shall give notice of any such motion to the Obligee.

NOW THEREFORE, if the Principal faithfully complies with the requirements and conditions of the Court Order within the limitations and parameters set forth therein, then this Obligation shall be void, otherwise it shall remain in full force and effect.

In witness whereof, each party to this bond has caused it to be executed at the place and on the date indicated below.

Signed, sealed and dated on this \_\_\_\_ day of \_\_\_\_, 20\_\_.

Principal:      Surety:

\_\_\_\_\_  
(Name and address of Principal)

\_\_\_\_\_  
(Name and address of Surety)

\_\_\_\_\_  
(Signature of Principal)

(Countersigned by attorney-in-fact)

(Surety seal)

Witness:

*As added by P.L.171-2001, SEC.8.*

### **IC 31-16-3.5-3**

Sec. 3. Upon forfeiture, the proceeds of security, a bond, or other guarantee ordered to secure the obligation of child support, enforcement of a custody order, or enforcement of a visitation order under this article may only be used to:

- (1) reimburse the nonviolating party for actual costs or damages incurred in upholding the court's order;
- (2) locate and return the child to the residence as set forth in the court's order, if the security, bond, or guarantee covers custody or visitation, or both; or
- (3) reimburse reasonable fees and court costs to the court appointed trustee.

*As added by P.L.171-2001, SEC.8.*

**IC 31-16-3.5-4**

Sec. 4. The proceeds of the security, bond, or other guarantee ordered to secure the obligation of child support ordered under this article that are not applied to the expenses described in section 3 of this chapter must be applied toward:

- (1) the child's higher education; or
- (2) the support and maintenance of the child.

*As added by P.L.171-2001, SEC.8.*

**IC 31-16-4 Repealed**  
(*Repealed by P.L.197-1997, SEC.29.*)



**IC 31-16-5 Repealed**

*(Repealed by P.L.197-1997, SEC.29.)*

## **IC 31-16-6**

### **Chapter 6. Child Support Orders**

#### **IC 31-16-6-1**

Sec. 1. In an action for dissolution of marriage under IC 31-15-2, legal separation under IC 31-15-3, or child support under IC 31-16-2, the court may order either parent or both parents to pay any amount reasonable for support of a child, without regard to marital misconduct, after considering all relevant factors, including:

- (1) the financial resources of the custodial parent;
- (2) the standard of living the child would have enjoyed if:
  - (A) the marriage had not been dissolved; or
  - (B) the separation had not been ordered;
- (3) the physical or mental condition of the child and the child's educational needs; and
- (4) the financial resources and needs of the noncustodial parent.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-6-2**

Sec. 2. (a) The child support order or an educational support order may also include, where appropriate:

- (1) amounts for the child's education in elementary and secondary schools and at institutions of higher learning, taking into account:
  - (A) the child's aptitude and ability;
  - (B) the child's reasonable ability to contribute to educational expenses through:
    - (i) work;
    - (ii) obtaining loans; and
    - (iii) obtaining other sources of financial aid reasonably available to the child and each parent; and
  - (C) the ability of each parent to meet these expenses;
- (2) special medical, hospital, or dental expenses necessary to serve the best interests of the child; and
- (3) fees mandated under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).

(b) If the court orders support for a child's educational expenses at an institution of higher learning under subsection (a), the court shall reduce other child support for that child that:

- (1) is duplicated by the educational support order; and
- (2) would otherwise be paid to the custodial parent.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-6-3**

Sec. 3. As part of the child support order the court may set apart the part of the property of either parent or both parents that appears necessary and proper for the support of the child.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-6-4**

Sec. 4. A child support order may also include, where appropriate, basic health and hospitalization insurance coverage for the child. If,

however, the Title IV-D agency initiates action to establish a support obligation and petitions the court to include basic health and hospitalization insurance coverage in the support order, the court shall consider including a provision for insurance coverage for the child if the insurance coverage:

- (1) is available to the parent ordered to pay child support or the dependents of the parent as part of the parent's employee benefit plan; or
- (2) is available at reasonable cost to the parent ordered to pay child support.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-6-5**

Sec. 5. Upon entering an order under section 1 of this chapter, the court may provide for such security, bond, or other guarantee that is satisfactory to the court to secure the obligation to make child support payments.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-6-6**

Sec. 6. (a) The duty to support a child under this chapter ceases when the child becomes twenty-one (21) years of age unless any of the following conditions occurs:

- (1) The child is emancipated before becoming twenty-one (21) years of age. In this case the child support, except for the educational needs outlined in section 2(a)(1) of this chapter, terminates at the time of emancipation, although an order for educational needs may continue in effect until further order of the court.
- (2) The child is incapacitated. In this case the child support continues during the incapacity or until further order of the court.
- (3) The child:
  - (A) is at least eighteen (18) years of age;
  - (B) has not attended a secondary or postsecondary school for the prior four (4) months and is not enrolled in a secondary or postsecondary school; and
  - (C) is or is capable of supporting himself or herself through employment.

In this case the child support terminates upon the court's finding that the conditions prescribed in this subdivision exist. However, if the court finds that the conditions set forth in clauses (A) through (C) are met but that the child is only partially supporting or is capable of only partially supporting himself or herself, the court may order that support be modified instead of terminated.

(b) For purposes of determining if a child is emancipated under subsection (a)(1), if the court finds that the child:

- (1) has joined the United States armed services;
- (2) has married; or
- (3) is not under the care or control of:
  - (A) either parent; or
  - (B) an individual or agency approved by the court;

the court shall find the child emancipated and terminate the child support.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-6-7**

Sec. 7. (a) Unless otherwise agreed in writing or expressly provided in the order, provisions for child support are terminated:

(1) by the emancipation of the child; but

(2) not by the death of the parent obligated to pay the child support.

(b) If the parent obligated to pay support dies, the amount of support may be modified or revoked to the extent just and appropriate under the circumstances on petition of representatives of the parent's estate.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-6-8**

*(Repealed by P.L.197-1997, SEC.29.)*

**IC 31-16-6.4****Chapter 6.4. Mediation****IC 31-16-6.4-1**

Sec. 1. Whenever the court issues an order under this article, other than an ex parte order, the court shall determine whether the proceeding should be referred to mediation. In making this determination, the court shall consider:

- (1) the ability of the parties to pay for the mediation services; and
- (2) whether mediation is appropriate in helping the parties resolve their disputes.

*As added by P.L.199-1997, SEC.2.*

**IC 31-16-6.4-2**

Sec. 2. When a case is ordered to mediation, the case shall be placed on the court docket for final hearing. The mediation process must be completed not later than sixty (60) days after the mediation order is entered. However, the sixty (60) day period may be extended by the court upon the court's own motion, upon agreement of the parties, or upon the recommendation of the mediator, but may not be extended beyond the date set for final hearing. Upon completion of the mediation process, the mediator shall promptly file the mediation report.

*As added by P.L.199-1997, SEC.2.*

**IC 31-16-7 Repealed**  
(*Repealed by P.L.197-1997, SEC.29.*)

## **IC 31-16-8**

### **Chapter 8. Modification of Child Support or Maintenance Orders**

#### **IC 31-16-8-1**

Sec. 1. Provisions of an order with respect to child support or an order for maintenance ordered under IC 31-16-7-1 (or IC 31-1-11.5-9(c) before its repeal) may be modified or revoked. Except as provided in section 2 of this chapter, modification may be made only:

- (1) upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable; or
- (2) upon a showing that:
  - (A) a party has been ordered to pay an amount in child support that differs by more than twenty percent (20%) from the amount that would be ordered by applying the child support guidelines; and
  - (B) the order requested to be modified or revoked was issued at least twelve (12) months before the petition requesting modification was filed.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-8-2**

Sec. 2. The court shall consider modifying a support order to include basic health and hospitalization coverage for the child if a Title IV-D agency, authorized under the federal Social Security Act (42 U.S.C. 651 through 669) and IC 12-17-2-21, petitions for the modification and the coverage is:

- (1) available to the parent ordered to pay child support or the dependents of the parent as part of the parent's employee benefit plan; or
- (2) available at reasonable cost to the parent ordered to pay child support.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-8-3**

Sec. 3. The court may provide in a modification of a support order for the security, bond, or other guarantee that is satisfactory to the court to secure the obligation to make support payments.

*As added by P.L.171-2001, SEC.9.*

## **IC 31-16-9**

### **Chapter 9. Method of Payment of Support**

#### **IC 31-16-9-1**

Sec. 1. Upon entering an order for support in:

- (1) a dissolution of marriage decree under IC 31-15-2;
- (2) a legal separation decree under IC 31-15-3; or
- (3) a child support decree under IC 31-16-2;

the court shall require that support payments be made through the clerk of the circuit court as trustee for remittance to the person entitled to receive payments, unless the court has reasonable grounds for providing or approving another method of payment.

*As added by P.L.1-1997, SEC.8. Amended by P.L.197-1997, SEC.10.*

#### **IC 31-16-9-2**

Sec. 2. (a) The clerk of the circuit court shall maintain records listing the following:

- (1) The amount of the payments.
- (2) The date when payments are required to be made.
- (3) The names and addresses of the parties affected by the order.
- (4) The information required to be submitted to the clerk under sections 3 and 4 of this chapter.

(b) If the clerk elects under IC 5-13-6-4(a) not to follow the accounting and depository procedures required by IC 5-13-6, the clerk shall comply with IC 5-13-6-4(b).

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-9-3**

Sec. 3. At the time of the issuance or modification of a support order, the parties affected by the order shall inform the clerk of the court of:

- (1) any change of address or other conditions that may affect the administration of the order;
- (2) whether any of the parties is receiving or has received assistance under the federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.); and
- (3) the Social Security number of any child affected by the order.

The Social Security number required under subdivision (3) shall be kept confidential and used only to carry out the purposes of the Title IV-D program.

*As added by P.L.1-1997, SEC.8. Amended by P.L.213-1999, SEC.11.*

#### **IC 31-16-9-4**

Sec. 4. The custodial parent and the noncustodial parent shall furnish the following information to the clerk of the court at the time of the issuance or modification of a child support order:

- (1) The parent's Social Security number.
- (2) The name and address of the parent's employer.

*As added by P.L.1-1997, SEC.8. Amended by P.L.138-2001, SEC.11.*

#### **IC 31-16-9-5**



Sec. 5. In all cases administered by the Title IV-D agency, the court shall order the noncustodial parent to inform the Title IV-D agency and the court of the following:

- (1) The name and address of the noncustodial parent's current employer.
- (2) Access to health insurance.
- (3) Specific health insurance policy information.
- (4) The noncustodial parent's Social Security number.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-9-6**

Sec. 6. At the time of entering an order for support or at any subsequent time, the court may order, upon a proper showing of necessity, the spouse or other person receiving support payments to provide an accounting to the court of future expenditures upon such terms and conditions as the court decrees.

*As added by P.L.1-1997, SEC.8.*

## **IC 31-16-10**

### **Chapter 10. Child Support Payments to Third Parties**

#### **IC 31-16-10-1**

Sec. 1. Upon entering an order under IC 31-16-6-1 or at any subsequent time, the court may order, upon the proper showing that a person other than the person awarded custody under IC 31-17-2-8 (or IC 31-1-11.5-21 before its repeal) should receive payments, that the clerk of the circuit court or the person obligated to make the payments transmit those payments to any third person agreed upon by the parties and approved by the court or appointed by the court, including the following:

- (1) A trustee.
- (2) The guardian of the estate of the child.
- (3) Any third person.
- (4) The county office of family and children or any appropriate social service agency.
- (5) The state agency administering Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).
- (6) The township trustee.

*As added by P.L.1-1997, SEC.8. Amended by P.L.139-2000, SEC.3.*

#### **IC 31-16-10-2**

Sec. 2. (a) If the clerk of the court is notified by the Title IV-D agency or the agency's designee that:

- (1) the child who is the beneficiary of a support order is receiving assistance under the federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.); and
- (2) an assignment of support rights in favor of the state is in effect against the person obligated to make child support payments;

the clerk of the court shall forward the child support payments directly to the Title IV-D agency without further order of the court.

(b) The Title IV-D agency shall disburse the payments in accordance with federal regulations governing the Title IV-D program.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-10-3**

Sec. 3. (a) Any person or agency named in section 1 or 2 of this chapter is entitled to receive the child support payments from the clerk of the circuit court or the person obligated to make the payments. The payments shall be used solely for the benefit of the child entitled to receive the payments.

(b) If the payment has been assigned to the state agency administering Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669), the payments shall be disbursed in accordance with federal regulations governing the Title IV-D program. The court may allow the agency to receive a reasonable fee for services provided under this chapter. The agency shall make financial reports in connection with such services at the time and in the manner that is prescribed by the court or required by law.

*As added by P.L.1-1997, SEC.8.*

## **IC 31-16-11**

### **Chapter 11. Costs and Attorney's Fees**

#### **IC 31-16-11-1**

Sec. 1. (a) The court periodically may order a party to pay a reasonable amount for:

- (1) the cost to the other party of maintaining or defending any proceeding under this chapter, IC 31-16-2 through IC 31-16-10, or IC 31-16-12;
- (2) attorney's fees; and
- (3) mediation services;

including amounts for legal services provided and costs incurred before the commencement of the proceedings or after entry of judgment.

(b) The court may order the amount to be paid directly to the attorney, who may enforce the order in the attorney's name.

*As added by P.L.1-1997, SEC.8. Amended by P.L.199-1997, SEC.5.*

#### **IC 31-16-11-2**

Sec. 2. Neither costs or attorney's fees may be taxed against an agency, or the agency's agents, that is authorized to maintain proceedings under this chapter, IC 31-16-2 through IC 31-16-10, or IC 31-16-12 by Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669) and IC 12-17-2-21.

*As added by P.L.1-1997, SEC.8.*

## **IC 31-16-12**

### **Chapter 12. Enforcement of Child Support Orders**

#### **IC 31-16-12-1**

Sec. 1. Notwithstanding any other law, all orders and awards contained in a child support decree may be enforced by:

- (1) contempt, including the provisions under section 6 of this chapter;
- (2) assignment of wages or other income; or
- (3) any other remedies available for the enforcement of a court order;

except as otherwise provided by IC 31-16-2 through IC 31-16-11 or this chapter.

*As added by P.L.1-1997, SEC.8. Amended by P.L.197-1997, SEC.11; P.L.123-2001, SEC.2.*

#### **IC 31-16-12-2**

Sec. 2. The court may, upon a request by the person or agency entitled to receive child support payments, order interest charges of not more than one and one-half percent (1 1/2%) per month to be paid on any delinquent child support payment. The person or agency may apply for interest if support payments are not made in accordance with the support order. Accrued interest charges may be collected in the same manner as support payments under IC 31-16-9.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-12-3**

Sec. 3. The obligation of a person to pay child support arrearages does not terminate when the person's duty to support a child ceases under IC 31-16-6-6 (or IC 31-1-11.5-12(e) before its repeal). The statutes applicable to the collection of child support obligations are applicable to the collection of child support arrearages described in this section.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-12-4**

Sec. 4. Upon application to the court for enforcement of an order for support, the court may:

- (1) enforce a judgment created under IC 31-16-16-2 (or IC 31-2-11-8 before its repeal) against the person obligated to pay support;
- (2) issue an income withholding order as provided in IC 31-16-15-1; or
- (3) activate an income withholding order as provided in IC 31-16-15-5 or IC 31-16-15-6.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-12-5**

Sec. 5. The enforcement remedies provided under this chapter are in addition to other remedies available for collecting delinquent support.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-12-6**

Sec. 6. If the court finds that a party is delinquent as a result of an intentional violation of an order for support, the court may find the party in contempt of court. If an action or request to enforce payment of a child support arrearage is commenced not later than ten (10) years after:

- (1) the child becomes eighteen (18) years of age; or
- (2) the emancipation of the child;

whichever occurs first, the court may, upon a request by the person or agency entitled to receive child support arrearages, find a party in contempt of court. The court may order a party who is found in contempt of court under this section to perform community restitution or service without compensation in a manner specified by the court.

*As added by P.L.1-1997, SEC.8. Amended by P.L.32-2000, SEC.18; P.L.123-2001, SEC.3.*

#### **IC 31-16-12-7**

Sec. 7. If a court finds that a person is delinquent (as defined in IC 12-17-2-1.5) as a result of an intentional violation of an order for support, the court shall issue an order to the bureau of motor vehicles:

- (1) stating that the person is delinquent; and
- (2) ordering the following:
  - (A) If the person who is the subject of the order holds a driving license or permit on the date of issuance of the order, that the driving privileges of the person be suspended until further order of the court.
  - (B) If the person who is the subject of the order does not hold a driving license or permit on the date of issuance of the order, that the bureau may not issue a driving license or permit to the person until the bureau receives a further order of the court.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-12-8**

Sec. 8. If a court finds that a person who is an applicant (as defined in IC 25-1-1.2-1), a practitioner (as defined in IC 25-1-1.2-6), an attorney, or a licensed teacher is delinquent (as defined in IC 12-17-2-1.5) as a result of an intentional violation of an order for support, the court shall issue an order to the board regulating the practice of the person's profession or occupation:

- (1) requiring that the person's or practitioner's license be suspended until further order of the court; or
- (2) ordering the board not to issue a license to the person who is the subject of the order if the person does not currently hold a license.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-12-9**

Sec. 9. If a court finds that a person who holds a license issued under IC 4-31-6 or IC 4-33 is delinquent (as defined in IC 12-17-2-1.5)

as a result of an intentional violation of an order for child support, the court shall issue an order to:

- (1) the Indiana horse racing commission if the person holds a license issued under IC 4-31-6; or
- (2) the Indiana gaming commission if the person holds a license issued under IC 4-33;

requiring that the person's license be suspended until further order of the court.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-12-10a**

*Note: This version of section effective until 1-1-2002. See also following version of this section, effective 1-1-2002.*

Sec. 10. If a court finds that a person who holds a license or who is an applicant for a license issued under IC 27-1-15.5 or IC 27-10-3 is delinquent (as defined in IC 12-17-2-1.5) as a result of an intentional violation of an order for child support, the court shall issue an order to the commissioner of the department of insurance:

- (1) requiring that the person's license be suspended until further order of the court;
- (2) ordering the commissioner not to issue a license to the person who is the subject of the order if the person does not currently hold a license; or
- (3) ordering the commissioner not to renew the license of a person who is the subject of the order.

*As added by P.L.1-1997, SEC.8.*

*Note: See also following version of this section, effective 1-1-2002.*

#### **IC 31-16-12-10b**

*Note: This version of section effective 1-1-2002. See also preceding version of this section, effective until 1-1-2002.*

Sec. 10. If a court finds that a person who holds a license or who is an applicant for a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 is delinquent (as defined in IC 12-17-2-1.5) as a result of an intentional violation of an order for child support, the court shall issue an order to the commissioner of the department of insurance:

- (1) requiring that the person's license be suspended until further order of the court;
- (2) ordering the commissioner not to issue a license to the person who is the subject of the order if the person does not currently hold a license; or
- (3) ordering the commissioner not to renew the license of a person who is the subject of the order.

*As added by P.L.1-1997, SEC.8. Amended by P.L.132-2001, SEC.23.*

*Note: See also preceding version of this section, effective until 1-1-2002.*

#### **IC 31-16-12-11**

IC 31-16-12-11 Sec. 11. Notwithstanding section 7, 8, 9, or 10 of this chapter, the court may stay the issuance of an order under section 7, 8,

9, or 10 of this chapter (or IC 31-1-11.5-13(j), IC 31-1-11.5-13(k), IC 31-1-11.5-13(l), or IC 31-1-11.5-13(m) before the repeal of IC 31-1-11.5-13) if:

- (1) the person pays the child support arrearage in full; or
- (2) an income withholding order under IC 31-16-15 (or IC 31-2-10 before its repeal) is activated and a payment plan to pay the arrearage is established.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-12-12**

Sec. 12. (a) This section applies if:

- (1) the parent who is entitled to receive child support; and
- (2) the parent who is ordered to pay child support;

are both present in Indiana.

(b) The parent who is entitled to receive child support may register a child support order issued by another Indiana court or foreign court for the sole purpose of enforcement in accordance with IC 31-18-6-1 through IC 31-18-6-8 of the Uniform Interstate Family Support Act.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-13**

**Chapter 13. Registration of Child Support Orders for Enforcement Purposes**

**IC 31-16-13-1**

Sec. 1. If:

- (1) the parent who is entitled to receive child support; and
- (2) the parent who is ordered to pay child support;

are both present in Indiana, the parent who is entitled to receive child support may register a child support order issued by another Indiana court or foreign court for the sole purpose of enforcement in accordance with IC 31-18-6-1 through IC 31-18-6-8 of the Uniform Interstate Family Support Act.

*As added by P.L.1-1997, SEC.8.*



## **IC 31-16-14**

### **Chapter 14. Actions for Support of Dependents by Dependent Spouse**

#### **IC 31-16-14-1**

Sec. 1. (a) A dependent spouse may bring an action in a circuit or superior court to obtain support from the other spouse for the benefit of the dependent spouse and the dependent children in the custody of the dependent spouse if:

- (1) the other spouse has deserted the dependent spouse or dependent children without cause and without sufficient support;
- (2) the other spouse has:
  - (A) been convicted of a felony;
  - (B) been imprisoned; and
  - (C) left the dependent spouse or dependent children without sufficient support;
- (3) the other spouse:
  - (A) becomes incapacitated; or
  - (B) neglects to provide support for the dependent spouse or dependent children;because the other spouse is a habitual drunkard;
- (4) the other spouse:
  - (A) joins a sect or denomination that requires a renunciation of the marriage or that forbids the spouses to cohabit as husband and wife; and
  - (B) renounces the marriage or refuses to live with the dependent spouse in a marital relationship; or
- (5) the other spouse has been adjudged insane.

(b) A dependent spouse may join other persons as codefendants in an action brought under subsection (a) if the other persons:

- (1) are indebted to either spouse; or
- (2) have rights, credits, or choses in action that belong to either spouse and that are in the possession or control of the other persons.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-14-2**

Sec. 2. (a) A dependent spouse may bring an action under section 1 of this chapter by filing a complaint against the other spouse and against other persons who may be joined as codefendants in the action under section 1(b) of this chapter. The complaint must contain the following:

- (1) An allegation of the marriage of the dependent spouse and the other spouse.
- (2) The name and age of each dependent child living with or in the custody of the dependent spouse.
- (3) A statement that the dependent spouse may bring the action for a reason described in section 1(a) of this chapter.
- (4) The most specific possible description of the real and personal property of the other spouse that is in Indiana.
- (5) An allegation of the probable value of the real and personal

property of the other spouse that is in Indiana.

(6) The circumstances and mode of life of the dependent spouse and other spouse.

(7) The amount necessary to support the dependent spouse and dependent children.

(b) If other persons are joined as codefendants in the action under section 1(b) of this chapter, the complaint described in subsection (a) must also contain the following:

(1) An allegation that the other persons:

(A) are indebted to either spouse; or

(B) have rights, credits, or choses in action that belong to either spouse and that are in the possession or control of the other persons.

(2) An allegation of the amount of indebtedness under subdivision

(1)(A).

(3) An allegation of the value of the rights, credits, and choses in action described in subdivision (1)(B).

*As added by P.L.1-1997, SEC.8.*

### **IC 31-16-14-3**

Sec. 3. Process in actions brought under this chapter is the same as in other civil actions.

*As added by P.L.1-1997, SEC.8.*

### **IC 31-16-14-4**

Sec. 4. The court shall hold a hearing on the complaint and make a determination. If the court finds that the allegations in the complaint are true, the court may do any of the following:

(1) Order the defendant spouse to pay an amount that is just, equitable, and in the best interests of the dependent spouse and dependent children.

(2) Order the defendant spouse's real or personal property, or both, to be sold to the highest bidder on terms and upon notice as directed by the court.

(3) Order:

(A) the defendant spouse's real property or a part of the defendant spouse's real property to be leased; and

(B) the proceeds of the lease to be applied to the support of the dependent spouse and dependent children.

(4) Appoint a receiver of the defendant spouse's estate, require the receiver to take an oath and obtain a bond, and order the receiver to:

(A) reduce the estate to possession;

(B) collect the defendant spouse's rights, credits, and choses in action;

(C) manage, sell, mortgage, or lease the defendant spouse's real property; and

(D) sell the defendant spouse's personal property.

(5) Order other parties who are joined in the action under section 1(b) of this chapter to:

(A) pay indebtedness owed to the defendant spouse; or

(B) relinquish possession or control of the defendant spouse's rights, credits, and choses in action or other property; to provide support for the dependent spouse and dependent children.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-14-5**

Sec. 5. If the court orders support to be paid under this chapter, the court may, without appointing a receiver, authorize the dependent spouse to:

- (1) collect debts owed to the other spouse; and
- (2) lease or mortgage any part of the other spouse's real property and apply the proceeds of the mortgage or lease to the support of the dependent spouse and dependent children.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-14-6**

Sec. 6. An action to modify an order made under this chapter may be initiated by filing a complaint and providing notice in accordance with sections 2 and 3 of this chapter.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-14-7**

Sec. 7. If real property is sold under this chapter:

- (1) the sale must be made by a receiver or commissioner appointed by the court for that purpose;
- (2) the sale must be of the entire fee;
- (3) the court may confirm the sale;
- (4) the court may order deeds;
- (5) the court may require the purchaser to:
  - (A) obtain a mortgage; or
  - (B) provide security; and
- (6) the purchaser's title may not be questioned collaterally if:
  - (A) the defendant spouse had personal service of process; or
  - (B) the defendant spouse:
    - (i) left Indiana or could not be found; and
    - (ii) received service of process by publication.

*As added by P.L.1-1997, SEC.8.*

## **IC 31-16-15**

### **Chapter 15. Child Support Income Withholding Orders**

#### **IC 31-16-15-1**

Sec. 1. (a) In a proceeding under IC 31-14 or IC 31-16-2 through IC 31-16-12 to establish, modify, or enforce a child support order, the court shall:

- (1) enter an order for immediate income withholding; and
- (2) modify any previously issued income withholding order that has not been activated under this chapter to provide for immediate income withholding.

(b) The court shall issue the income withholding order to the income payor not later than fifteen (15) calendar days after the court's determination.

(c) The income withholding order must order income payors to send to the clerk of the court or other person specified in the support order under:

- (1) IC 31-14-11-11;
- (2) IC 31-16-4; or
- (3) IC 31-16-9;

the amount of income established by the court for child support at the time the order for child support is established, enforced, or modified.

(d) However, the court shall issue an income withholding order that will not become activated except upon the occurrence of the two (2) conditions described in section 2 of this chapter if:

- (1) the parties submit a written agreement providing for an alternative child support arrangement; or
- (2) the court determines that good cause exists not to require immediate income withholding.

(e) A finding of good cause under subsection (d)(2) must:

- (1) be written; and
- (2) include:
  - (A) all reasons why immediate income withholding is not in the best interests of the child; and
  - (B) if the case involves a modification of support, a statement that past support has been timely paid.

(f) The income withholding order must contain a statement that if the withholding order is activated, income payors will be ordered to send to the clerk of the court or other person specified in the support order under:

- (1) IC 31-14-11-11;
- (2) IC 31-16-4; or
- (3) IC 31-16-9;

the amount of income established by the court for child support.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-15-2**

Sec. 2. A court acting under section 1(d)(1) or 1(d)(2) of this chapter shall activate the immediate income withholding order under section 5 or 6 of this chapter upon occurrence of either of the following:

- (1) The obligor's support payment becomes delinquent.
- (2) The obligor requests that the withholding order become activated.

*As added by P.L.1-1997, SEC.8.*

### **IC 31-16-15-3**

Sec. 3. In the case of a support order that is enforced by the Title IV-D agency after June 30, 1985, the Title IV-D agency may require an income payor to withhold income from:

- (1) a delinquent obligor;
- (2) an obligor who requests an immediate income withholding order; or
- (3) the obligor if:
  - (A) the custodial parent requests an immediate income withholding order;
  - (B) the obligor is at least one (1) month in arrears; and
  - (C) the Title IV-D agency determines that the request be approved;

despite the absence of a withholding order in the support order if the Title IV-D agency complies with the requirements imposed by sections 7, 10, 11, 13, and 14 of this chapter.

*As added by P.L.1-1997, SEC.8.*

### **IC 31-16-15-4**

Sec. 4. (a) This section applies to the implementation of income withholding under an order issued under sections 1 and 3 of this chapter.

(b) If the Title IV-D agency or the court becomes aware that the obligor has an income payor to whom a notice has not been sent under subsection (c) or an income payor to whom notice of delinquent support has not been sent under subsection (c):

- (1) the Title IV-D agency in a case arising under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669); or
- (2) the court;

shall not later than fifteen (15) calendar days after becoming aware of an income payor send a written notice to the income payor that the withholding is binding on the income payor.

(c) The notice to an income payor under this section must contain a statement of the following:

- (1) That the income payor is required to withhold a certain amount of income from the obligor.
- (2) That the total amount to be withheld under court order by the obligor's income payor from the obligor's income is the sum of:
  - (A) the obligor's current child support obligation;
  - (B) an amount to be applied toward the liquidation of any arrearages; and
  - (C) an optional fee of two dollars (\$2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the clerk of the court or other person specified in the notice;

up to the maximum amount permitted under 15 U.S.C. 1673(b).

- (3) That the income payor shall:
- (A) forward the withheld income described in subdivision (2)(A) and (2)(B) to the clerk of the court or other person named in the notice at the same time that the obligor is paid; and
  - (B) include a statement identifying:
    - (i) each cause number;
    - (ii) the name of each obligor; and
    - (iii) the name of each payee with the withheld income forwarded by the income payor.
- (4) That withholding is binding upon the income payor until further notice from a Title IV-D agency.
- (5) That the obligor may recover from the income payor in a civil action an amount not less than one hundred dollars (\$100) if the income payor:
- (A) discharges the obligor from employment;
  - (B) refuses the obligor employment; or
  - (C) disciplines the obligor;
- solely because the income payor is required to forward income under this chapter.
- (6) That the income payor is liable for any amount that the income payor fails to forward under this chapter.
- (7) That withholding under this chapter has priority over any secured or unsecured claim on income except claims for federal, state, and local taxes.
- (8) That, if the income payor is required to withhold income from more than one (1) obligor, the income payor may:
- (A) combine in a single payment the withheld amounts for all obligors who have been ordered to pay the same clerk or other governmental agency; and
  - (B) separately identify the part of the single payment that is attributable to each individual obligor.
- (9) That if:
- (A) there is more than one (1) order for withholding against a single obligor; and
  - (B) the obligor has insufficient disposable earnings to pay the amount required by all the orders;
- the income payor shall distribute the withheld earnings pro rata among the entities entitled to receive earnings under the orders, giving priority to a current support withholding order. The income payor shall honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b).
- (10) That the income payor shall implement withholding not later than the first pay date after fourteen (14) days following the date the notice was received.
- (11) That the income payor shall:
- (A) notify:
    - (i) the Title IV-D agency if the Title IV-D agency gives the notice under this section; or
    - (ii) the court if the court gives the notice under this section;

when the obligor ceases employment or no longer receives income not later than ten (10) days after the employment or income ceases; and

(B) provide:

- (i) the obligor's last known address; and
- (ii) the name and address of the obligor's new income payor, if known.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-15-5**

Sec. 5. In a case arising under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669), the Title IV-D agency shall activate an income withholding order if:

- (1) the obligor is delinquent as provided by section 2 of this chapter;
- (2) the obligor requests an immediate income withholding order;
- (3) the:
  - (A) custodial parent requests an immediate income withholding order;
  - (B) obligor is at least one (1) month in arrears; and
  - (C) Title IV-D agency determines that the request be approved;
- (4) section 24 of this chapter applies; or
- (5) a court has issued an income withholding order before the case becomes a case administered by a Title IV-D agency;

upon compliance with sections 7 and 10 of this chapter.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-15-6**

Sec. 6. The court shall activate an income withholding order if:

- (1) the obligor petitions the court to activate the income withholding order upon compliance with section 10 of this chapter;
- (2) subject to the requirements of sections 1 through 3, 8, and 10 of this chapter, the individual entitled to receive child support petitions the court to activate the income withholding order; or
- (3) section 24 of this chapter applies.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-15-7**

Sec. 7. (a) Whenever an income withholding order is to be:

- (1) activated in a case arising under section 5 of this chapter; or
- (2) implemented by a Title IV-D agency under section 3 of this chapter despite the absence of a withholding order in the support order;

the Title IV-D agency shall send a written notice to the obligor.

(b) The notice required under subsection (a) must contain a statement of the following:

- (1) Whether the obligor is delinquent in the payment of child support.
- (2) The amount of child support, if any, that the obligor is in

arrears.

- (3) That a certain amount of income is to be:
    - (A) withheld under court order or action by the Title IV-D agency from the obligor's income; and
    - (B) forwarded to the clerk of the court.
  - (4) That the total amount to be withheld under court order or action by the Title IV-D agency by the obligor's income payor from the obligor's income is the sum of:
    - (A) the obligor's current monthly child support obligation;
    - (B) an amount to be applied toward the liquidation of any arrearages; and
    - (C) an optional fee of two dollars (\$2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the clerk of the court or other person specified in the notice to the income payor under this chapter;
- up to the maximum amount permitted under 15 U.S.C. 1673(b).
- (5) That the provision for withholding applies to the receipt of any current or subsequent income.
  - (6) That the only basis for contesting activation of income withholding is a mistake of fact.
  - (7) That an obligor may contest the Title IV-D agency's determination to activate income withholding by making written application to the Title IV-D agency not later than twenty (20) days after the date the notice is mailed.
  - (8) That if the obligor contests the Title IV-D agency's determination to activate the income withholding order, the Title IV-D agency shall schedule an administrative hearing.
  - (9) That if the obligor does not contest the Title IV-D agency's determination to activate the income withholding order, the Title IV-D agency will activate income withholding.
  - (10) That income withholding will continue until a court or the Title IV-D agency terminates activation of income withholding.

*As added by P.L.1-1997, SEC.8.*

### **IC 31-16-15-8**

Sec. 8. (a) If a petition to activate an income withholding order is filed under section 6(2) or 6(3) of this chapter, the court shall set a date for a hearing on the petition that is not later than twenty (20) days after the date the petition is filed. The court shall send a summons and a written notice to the obligor. The notice must contain a statement of the following:

- (1) Whether the obligor is delinquent in the payment of child support.
- (2) The amount of child support, if any, that the obligor is in arrears.
- (3) That a certain amount for the payment of current and past due child support is to be withheld each month from the obligor's income and forwarded to the clerk of the court.
- (4) That the total amount to be withheld each month by the obligor's income payor from the obligor's income is the sum of:



- (A) the obligor's current monthly child support obligation;
- (B) an amount to be applied toward the liquidation of any arrearages; and
- (C) an optional fee of two dollars (\$2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the clerk of the court; up to the maximum amount permitted under 15 U.S.C. 1673(b).
- (5) That the provision for withholding applies to receipt of any current or subsequent income.
- (6) That any of the following constitutes a basis for contesting the withholding:
  - (A) A mistake of fact.
  - (B) The parties have submitted a written agreement providing for an alternative child support arrangement.
  - (C) A court determines that good cause exists not to require immediate income withholding.
- (7) That income withholding will continue until the activation of the income withholding order is terminated by the court.
- (8) That if the obligor does not appear at the hearing, the court will activate the income withholding order.

(b) If:

- (1) the obligor does not appear at the hearing on the petition filed under section 6(2) or 6(3) of this chapter; or
- (2) the court grants the petition;

the court shall activate the income withholding order by mailing a written notice to the income payor as provided in section 10 of this chapter.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-15-9**

Sec. 9. If the obligor files a petition to activate an income withholding order under section 6(1) of this chapter, the court shall activate the income withholding order by mailing a written notice to the income payor as provided in section 10 of this chapter.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-15-10**

Sec. 10. (a) To activate or implement an income withholding order, in addition to the notice requirements imposed by sections 7 and 8 of this chapter:

- (1) the Title IV-D agency in a case arising under section 3 or 5 of this chapter; or
- (2) the court in a case arising under section 6 of this chapter;

shall mail a written notice to each income payor not later than fifteen (15) calendar days after the issuance of the income withholding order.

(b) The notice to each income payor must contain a statement of the following:

- (1) That the income payor is required to withhold a certain amount of income from the obligor.
- (2) That the total amount to be withheld each month by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current monthly child support obligation;  
(B) an amount to be applied toward the liquidation of any arrearages; and  
(C) an optional fee of two dollars (\$2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the clerk of the court;  
up to the maximum amount permitted under 15 U.S.C. 1673(b).

(3) That the income payor shall:

(A) forward the withheld income described in subdivision (2)(A) and (2)(B) to the clerk of the court or the state central collection unit named in the notice at the same time that the obligor is paid; and

(B) include a statement identifying:

- (i) each cause number;
- (ii) the Indiana support enforcement tracking system (ISETS) case number;
- (iii) the name of each obligor; and
- (iv) the name of each payee with the withheld income forwarded by the income payor.

(4) That withholding is binding upon the income payor until further notice.

(5) That the obligor may recover from the income payor in a civil action an amount not less than one hundred dollars (\$100) if the income payor:

- (A) discharges the obligor from employment;
- (B) refuses the obligor employment; or
- (C) disciplines the obligor;

because the income payor is required to forward income under this chapter.

(6) That the income payor is liable for any amount that the income payor fails to forward under this chapter.

(7) That withholding under this chapter has priority over any secured or unsecured claim on income except claims for federal, state, and local taxes.

(8) That, if the income payor is required to withhold income from more than one (1) obligor, the income payor may:

- (A) combine in a single payment the withheld amounts for all obligors who have been ordered to pay the same clerk or other governmental agency; and
- (B) separately identify the part of the single payment that is attributable to each individual obligor.

(9) That if:

- (A) there is more than one (1) order for withholding against a single obligor; and
- (B) the obligor has insufficient disposable earnings to pay the amount required by all the orders;

the income payor shall distribute the withheld earnings pro rata among the entities entitled to receive earnings under the orders, giving priority to a current support withholding order, and shall honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b).

(10) That the income payor shall implement withholding not later than the first pay date after fourteen (14) days following the date the notice was received.

(11) That the income payor shall:

(A) notify:

(i) the Title IV-D agency in a case arising under section 5 of this chapter; or

(ii) the court in a case arising under section 1 or 6 of this chapter;

when the obligor terminates employment or ceases to receive other income not later than ten (10) days after termination; and

(B) provide:

(i) the obligor's last known address; and

(ii) the name and address of the obligor's new income payor if known.

*As added by P.L.1-1997, SEC.8. Amended by P.L.138-2001, SEC.12.*

### **IC 31-16-15-11**

Sec. 11. (a) An obligor may contest the Title IV-D agency's determination to implement or activate income withholding under section 3 or 5 of this chapter by making a written application to the Title IV-D agency not later than twenty (20) days after the date that notice is mailed to the obligor.

(b) The only basis for contesting the activation or implementation of income withholding under this section is a mistake of fact.

(c) If the obligor does not take timely action under subsection (a), the Title IV-D agency shall send the income withholding order to the income payor not later than fifteen (15) calendar days after:

(1) the end of the contest period; or

(2) determining the income payor's address if not known at the end of the contest period.

(d) The Title IV-D agency shall:

(1) hold, not later than twenty-five (25) days after written application is made under subsection (a), a hearing to review the agency's determination to activate income withholding; and

(2) make a determination on the activation of income withholding at the hearing.

(e) If the Title IV-D agency decides to activate income withholding, the Title IV-D agency shall mail a written notice to each income payor as provided in section 10 of this chapter.

*As added by P.L.1-1997, SEC.8.*

### **IC 31-16-15-12**

Sec. 12. (a) An obligor may contest the activation of an income withholding order under section 6(2) or 6(3) of this chapter by appearing at the hearing provided by section 8(b) of this chapter.

(b) The only basis for contesting the activation of an income withholding order under this section is a mistake of fact.

(c) If the court decides to activate the income withholding order, a written notice shall be mailed to the income payor as provided in section 10 of this chapter.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-15-13**

Sec. 13. In a case arising under section 3, 5, 6(2), or 6(3) of this chapter, activation of income withholding takes effect:

- (1) not earlier than twenty (20) days after the date written notice is sent to the obligor under section 7 or 8 of this chapter; and
- (2) upon the mailing of written notice to the income payor under section 10 of this chapter;

unless the court or the Title IV-D agency determines, at a hearing held under section 11 or 12 of this chapter, that income withholding may not be activated under this chapter.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-15-14**

Sec. 14. In a case arising under section 6(1) of this chapter, activation of income withholding takes effect upon the mailing of written notice to the income payor under section 10 of this chapter.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-15-15**

Sec. 15. (a) An income payor that is required to withhold income under this chapter shall:

- (1) forward income withheld for the payment of current and past due child support to the clerk of the court, the state central collection unit, or other person named in the notice at the same time that the obligor is paid;
- (2) include a statement identifying:
  - (A) each cause number;
  - (B) the Indiana support enforcement tracking system (ISETS) case number;
  - (C) the name of each obligor; and
  - (D) the name of each payee with the withheld income forwarded by the income payor; and
- (3) implement withholding not later than the first pay date after fourteen (14) days following the date the notice was received.

(b) The income payor may retain, in addition to the amount required to be forwarded to the clerk of court under subsection (a), a fee of two dollars (\$2) from the obligor's income each time the income payor forwards income to the clerk of the court or other person specified in the notice to an income payor under this chapter. If the income payor elects to withhold the fee, the amount to be withheld for the payment of current and past due child support must be reduced accordingly if necessary to avoid exceeding the maximum amount permitted to be withheld under 15 U.S.C. 1673(b).

*As added by P.L.1-1997, SEC.8. Amended by P.L.138-2001, SEC.13.*

**IC 31-16-15-16**

Sec. 16. If the income payor is required to withhold income from more than one (1) obligor under this chapter, the income payor may:

- (1) combine in a single payment the withheld amounts for all

obligors who have been ordered to pay to the same clerk or other governmental agency; and

(2) separately identify the part of the single payment that is attributable to each individual obligor.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-15-17**

Sec. 17. If:

(1) there is more than one (1) order for withholding against a single obligor under this chapter; and

(2) the obligor has insufficient disposable earnings to pay the amount required by all the orders;

the income payor shall distribute the withheld earnings pro rata among the entities entitled to receive earnings under the orders and shall honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b).

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-15-18**

Sec. 18. The income payor shall:

(1) notify:

(A) the Title IV-D agency in a case arising under section 3 or 5 of this chapter; or

(B) the court in a case arising under section 1 or 6 of this chapter;

when the obligor ceases to receive income not later than ten (10) days after the employment or income ceases; and

(2) provide:

(A) the obligor's last known address; and

(B) the name and address of the obligor's new income payor if known.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-15-19**

Sec. 19. (a) If an obligor:

(1) is entitled to net income in the form of:

(A) severance pay;

(B) accumulated sick pay;

(C) vacation pay;

(D) accumulated commissions;

(E) a bonus payment; or

(F) other lump sum payment; and

(2) owes an amount of child support that is in arrears;

the income payor shall withhold the amount in arrears or the product computed under subsection (b), whichever is less, up to the maximum permitted under 15 U.S.C. 1673(b).

(b) The income payor shall multiply:

(1) the amount of support the obligor is required to pay each week; by

(2) the number of weeks represented by the lump sum payment.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-15-20**

Sec. 20. The clerk of the court shall:

- (1) pay the income forwarded by the income payor to the person entitled to receive child support payments; and
- (2) maintain records to monitor and document the receipt and payment of income under this chapter.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-15-21**

Sec. 21. The court may modify an income withholding order under section 1 of this chapter whenever the court enforces an order of support under IC 31-14 or IC 31-16-2 through IC 31-16-12.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-15-22**

Sec. 22. (a) An income withholding order under section 1 of this chapter (or IC 31-2-10-7 before its repeal) terminates when both of the following occur:

- (1) The duty to support a child ceases under IC 31-14 or IC 31-16-2 through IC 31-16-12.
- (2) No child support arrearage exists.

(b) Activation of income withholding terminates when the whereabouts of the child and the child's custodial parent are unknown, preventing the forwarding of child support payments.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-15-23**

Sec. 23. If an income payor fails to forward the money required by an income withholding order as set forth in the notice described in section 10 of this chapter, the income payor is liable for the amount the income payor fails to forward.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-15-24**

Sec. 24. An income withholding order may be activated under section 5(4) or 6(3) of this chapter if:

- (1) a person who has been ordered to pay child support is delinquent;
- (2) the income withholding order cannot be activated under section 5 or 6 of this chapter; and
- (3) the duty to support a child has ceased under IC 31-14 or 31-16-2 through IC 31-16-12.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-15-25**

Sec. 25. (a) If an obligor is:

- (1) discharged from employment;
- (2) refused employment; or
- (3) disciplined;

because the income payor is required to withhold income of the obligor under this chapter, the obligor is entitled to recover an amount of not

less than one hundred dollars (\$100).

(b) The obligor may collect the money described in subsection (a) by filing a civil action against the income payor in a circuit or superior court.

(c) The collection of money under this section does not affect:

(1) the obligor's right to damages under IC 24-4.5-5-202; or

(2) any other legal remedy available to the obligor;

because of discharge from employment, refusal of employment, or disciplinary action.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-15-26**

Sec. 26. (a) If the Title IV-D agency or the court becomes aware that the obligor has a new income payor after income withholding has been activated under section 5 or 6 of this chapter:

(1) the Title IV-D agency in a case arising under section 5 of this chapter; or

(2) the court in a case arising under section 6 of this chapter;

shall send a notice to the new income payor that the withholding is binding on the new income payor.

(b) The notice sent under subsection (a) must comply with section 10 of this chapter.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-15-27**

Sec. 27. An income withholding order under this chapter has priority over any secured or unsecured claim on income except claims for federal, state, and local taxes that are required to be withheld for the calendar year in which the income is subject to a withholding order.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-15-28**

Sec. 28. The courts and the Title IV-D agency shall give full faith and credit to income withholding orders that are issued in other states.

*As added by P.L.1-1997, SEC.8.*

## **IC 31-16-16**

### **Chapter 16. Enforceable Judgment Against a Person Who is Delinquent in Payment of Child Support**

#### **IC 31-16-16-1**

Sec. 1. This chapter supplements other remedies available for the enforcement of a support order.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-16-2**

Sec. 2. A payment that is:

- (1) required under a support order; and
- (2) delinquent;

shall be treated as a judgment against the obligor for the delinquent amount.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-16-3**

Sec. 3. (a) A lien is created against the real and personal property of the obligor in the amount of a judgment described in section 5 or 6 of this chapter.

(b) A person holding a lien created by a judgment described in section 5 or 6 of this chapter:

- (1) has the priority of an unperfected secured creditor in any enforcement proceeding instituted against the property; and
- (2) may perfect the lien in the same manner as liens arising from other civil judgments are perfected.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-16-4**

Sec. 4. (a) An obligee may enforce a judgment created under section 5 or 6 of this chapter (or IC 31-2-11-8 before its repeal) in the same manner as other civil judgments are enforced.

(b) If in a proceeding to enforce a judgment created under section 5 or 6 of this chapter (or IC 31-2-11-8 before its repeal) an obligor or an income payor disputes the amount that constitutes a judgment, the court with jurisdiction over the enforcement proceeding may conduct a hearing to determine the amount of delinquent support that is a judgment.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-16-5**

Sec. 5. The courts shall recognize and enforce:

- (1) judgments created under section 5 or 6 of this chapter (or IC 31-2-11-8 before its repeal); and
- (2) judgments for delinquent support payments that are created under the laws of another state.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-16-6**

Sec. 6. (a) Except as provided in:



(1) subsection (b); or

(2) IC 31-14-19-1;

a court may not retroactively modify an obligor's duty to pay a delinquent support payment.

(b) A court with jurisdiction over a support order may modify an obligor's duty to pay a support payment that becomes due:

(1) after notice of the petition to modify the support order has been given either directly or through the appropriate agent to:

(A) the obligee; or

(B) if the obligee is the petitioner, the obligor; and

(2) before a final order concerning the petition for modification is entered.

*As added by P.L.1-1997, SEC.8.*

## **IC 31-16-17**

### **Chapter 17. Liability for Support of Parents**

#### **IC 31-16-17-1**

Sec. 1. Any individual:

- (1) whose father or mother provided the individual with necessary food, shelter, clothing, medical attention, and education until the individual reached sixteen (16) years of age; and
- (2) who is financially able due to the individual's own property, income, or earnings;

shall contribute to the support of the individual's parents if either parent is financially unable to furnish the parent's own necessary food, clothing, shelter, and medical attention. The individual shall also provide financial support for the parent's burial if the parent's burial is provided under IC 12-20-16-12.

*As added by P.L.1-1997, SEC.8. Amended by P.L.139-2000, SEC.4.*

#### **IC 31-16-17-2**

Sec. 2. An action for support of a parent may be instituted against a child for violation of the duty to support a parent as required by section 1 of this chapter by filing a verified complaint in a circuit or superior court of the county of the residence of either parent. The plaintiff or plaintiffs must be:

- (1) the parent or parents; or
- (2) the:
  - (A) prosecuting attorney of the judicial circuit;
  - (B) county director of the county office of family and children of the county in which the parent resides;
  - (C) township trustee of the township in which the parent resides; or
  - (D) division of family and children;on behalf of the parent.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-17-3**

Sec. 3. The complaint must allege definite specific facts to establish:

- (1) the duty to support; and
- (2) the violation of the duty to support.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-17-4**

Sec. 4. (a) Any of the following may prosecute a civil action for support of a parent:

- (1) The parent.
- (2) The township trustee.
- (3) The county director of the county office of family and children.
- (4) The director of the division of family and children.
- (5) The prosecuting attorney.

(b) Costs may not be taxed against:

- (1) the prosecuting attorney;

- (2) the county director of the county office of family and children;
- (3) the township trustee; or
- (4) the director of the division of family and children.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-17-5**

Sec. 5. In an action brought under this chapter in which:

- (1) the parent is the plaintiff; and
- (2) judgment is entered for the plaintiff;

the plaintiff is also entitled to recover reasonable attorney's fees, which the court trying the action shall enter as a part of the judgment.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-17-6**

Sec. 6. Notice shall be served upon a defendant and issues shall be made upon the verified complaint as in other civil actions.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-17-7**

Sec. 7. (a) The court on the court's own motion may order other children made additional parties defendant.

(b) In the trial of the action, evidence may be admitted concerning support and care furnished to or by children other than the defendants.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-17-8**

Sec. 8. (a) If:

- (1) the finding of the court; or
- (2) the verdict of the jury;

is for or against the defendant, each party aggrieved by the finding or verdict may file a motion for a new trial and other proceedings that are proper in other civil actions.

(b) Appeals may be taken as in other civil actions.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-17-9**

Sec. 9. If the trial is by jury, the verdict of the jury must state only that the jury finds in favor of each party that should recover.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-17-10**

Sec. 10. If the verdict or finding of the court is against a defendant, the court shall:

- (1) enter judgment against the defendant or defendants; and
- (2) order that adequate provision be made for the support of the parent or parents, taking into consideration:
  - (A) the needs of the parent or parents;
  - (B) the ability of the defendant to pay; and
  - (C) the evidence given in the action concerning treatment given the child by the parent when obligated to support the child.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-17-11**

Sec. 11. (a) An order of the court under section 10 of this chapter is a continuing order. The court has jurisdiction to modify the order with respect to:

- (1) the order's continuation;
- (2) the amount of support; and
- (3) the method of payment at any time during the need of the parent or during the financial ability of the child.

(b) The order:

- (1) must be for the payment of periodical amounts, equal or varying; and
- (2) may be apportioned in different amounts between the respective children who may be parties defendant to the proceedings.

(c) Execution of the order:

- (1) may issue on the judgment if an amount is due on the judgment; and
- (2) shall be executed without any relief from valuation, appraisement, or exemption laws.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-17-12**

Sec. 12. If a defendant is in default for failure to comply with the order and judgment of the court, the same process may be used for contempt of court as in divorce proceedings.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-18 Repealed**

*(Repealed by P.L.197-1997, SEC.29.)*

## **IC 31-16-19**

### **Chapter 19. Requirement That Support for Certain Dependents Be Paid Into Court or to Title IV-D Agency**

#### **IC 31-16-19-1**

Sec. 1. (a) If:

(1) an individual, by the terms of a court order or decree, is ordered to pay support money to or for the dependent wife, husband, father, mother, or child of the individual; and

(2) the:

(A) dependents are being supported in whole or in part by public money; or

(B) parent of the dependents has sought the assistance of the agency designated to administer Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669);

the court shall order that the payment of the support money be made to the clerk of the circuit court of the county in which the decree or order is entered.

(b) If the support order is for a child:

(1) who qualifies for assistance under IC 12-14-1-1; or

(2) whose parent has sought the assistance of the agency designated to administer Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669);

the court shall order that the payment of the support be made to the agency of state government designated to administer Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669) in compliance with the federal regulations established for the administration of Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).

(c) The order must contain:

(1) the date when the first support payment is to be made; and

(2) the frequency of the payments.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-19-2**

Sec. 2. If the court enters a decree or an order under section 1 of this chapter, the clerk shall:

(1) immediately set up an appropriate account system in the case; and

(2) maintain a continuous record of the payments to each account.

*As added by P.L.1-1997, SEC.8.*

## **IC 31-16-20**

### **Chapter 20. Transfer of Jurisdiction Over Support Orders**

#### **IC 31-16-20-1**

Sec. 1. This chapter applies whenever:

- (1) there is pending in an Indiana court an order requiring a parent to make regular payments for the support of the parent's children:
  - (A) subsequent to the dissolution of the marriage of the parents of the children;
  - (B) as a result of a paternity action under IC 31-14 (or IC 31-6-6.1 before its repeal);
  - (C) as a result of a legal separation action under IC 31-15-3; or
  - (D) as a result of a child support action under IC 31-16-2; and
- (2) it is shown to the court in which the order is pending that:
  - (A) the parent or other person rightfully having custody of the children is residing in a different county in Indiana from the county in which the:
    - (i) dissolution;
    - (ii) order under IC 31-14 (or IC 31-6-6.1 before its repeal);
    - (iii) order under IC 31-15-3; or
    - (iv) order under IC 31-16-2;was obtained;
  - (B) the other parent of the children:
    - (i) no longer resides; or
    - (ii) is not regularly found;in the county in which the dissolution, order under IC 31-14 (or IC 31-6-6.1 before its repeal), order under IC 31-15-3, or order under IC 31-16-2 was obtained; and
  - (C) it would be in the best interests of the children.

*As added by P.L.1-1997, SEC.8. Amended by P.L.197-1997, SEC.12.*

#### **IC 31-16-20-2**

Sec. 2. The court may order the proceedings with:

- (1) all papers and files pertaining to the order for support; and
- (2) certified copies of all orders for support;

transferred to the court having jurisdiction over such matters in the county in which the parent or other person having custody of the children is residing.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-20-3**

Sec. 3. The court to which the proceedings are transferred:

- (1) shall accept the proceedings; and
- (2) thereafter has jurisdiction over the children and matters relating to their support by the parent so ordered.

*As added by P.L.1-1997, SEC.8.*

#### **IC 31-16-20-4**

Sec. 4. The proceedings that are transferred shall be docketed as other civil matters are docketed, and a civil costs fee as provided in IC 33-19-5-4 shall be collected.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-20-5**

Sec. 5. (a) Except as provided in section 6 of this chapter, the order for the transfer of the proceedings may be made only after a hearing is held on a petition filed by or on behalf of the parent or other person having custody of the children.

(b) The petition must:

(1) set forth:

(A) the facts upon which the petition is based; and

(B) the reasons for requesting the transfer of the proceedings;  
and

(2) be verified.

(c) Notice shall be issued on the petition to the other parent notifying the other parent of:

(1) the pendency of the petition; and

(2) the time and place where the hearing will be heard.

(d) The hearing court shall:

(1) advance the hearing on the docket; and

(2) promptly hold the hearing.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-20-6**

Sec. 6. A court may enter an order for transfer of the proceedings without notice and a hearing if the petition required under section 5 of this chapter is:

(1) a joint petition; and

(2) filed on behalf of and verified by:

(A) the custodial parent or a person having custody of the children; and

(B) the noncustodial parent.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-20-7**

Sec. 7. (a) This chapter applies to proceedings pending in:

(1) the court in which the dissolution was obtained; or

(2) any other court to which the proceedings have been transferred.

(b) Any number of transfers may be made, as the best interests of the children require.

*As added by P.L.1-1997, SEC.8.*



**IC 31-16-21****Chapter 21. Annual Fee Payable to Court in Addition to Support Payments****IC 31-16-21-1**

Sec. 1. (a) Whenever in any court proceeding an order is in force for:

(1) the support and maintenance of the other party to the proceeding; or

(2) the support and maintenance of a child;

the individual required to pay the support shall pay the support.

(b) The clerk shall collect from the individual, in addition to the payments, the fee specified in IC 33-19-6-5.

(c) The clerk may collect any unpaid fee in a proceeding for contempt.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-21-2**

Sec. 2. The court entering an order described in section 1(a) of this chapter shall include a provision in the order that requires the individual to pay the support and maintenance fee.

*As added by P.L.1-1997, SEC.8.*

**IC 31-16-21-3**

Sec. 3. This chapter is supplemental to all other statutes relating to support payments.

*As added by P.L.1-1997, SEC.8.*